

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

May 5, 2003

**RESPONSIBLE STAFF:**

Frederick J. Felton  
Assistant City Manager  
Erica Shingara  
Environmental Specialist

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
X	Other: Introduction

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE:**

An Introduction of an Emergency Ordinance to Amend Chapter 2 of the City Code, Entitled "Administration," Article II, Entitled "Municipal-County Relations," Section 2-6 Thereof, Entitled "Exemption From Montgomery County Legislation and Regulations Within the City" so as to Include the Provisions of Section 19-35 Entitled "Water Quality Protection Charge" of Chapter 19 of the County Code Entitled "Erosion, Sediment Control, and Storm Water Management," as being Applicable and Enforceable Within the City

**SUPPORTING BACKGROUND:**

During the April 28, 2003 work session, the Mayor and City Council directed staff to introduce an emergency ordinance that would make Section 19-35 of the Montgomery County Code applicable within the City of Gaithersburg.

For your review, I have attached the cover sheet and supporting background from the April 28, 2003 work session.

As discussed, staff is recommending that we pursue a Memorandum of Understanding with Montgomery County whereby the County would assess and collect the Water Quality Protection Charge on properties within the City of Gaithersburg, and return these funds (less administrative costs) to the City to help finance our Storm Water Management and NPDES compliance programs.

Currently, the County's Water Quality Protection Charge is \$12.75 a year for detached single-family homes, and \$4.21 a year for townhouses. Fees for multi-family properties and certain associated non-residential properties are calculated based on the amount of impervious area they contain.

Staff believes that adoption of this ordinance would generate between \$110,000 to \$140,000 annually. As discussed, during the April 28, 2003 work session, it appears that the City's combined operating and capital costs in the FY'04 Budget will be approximately 1.5 million dollars.

**DESIRED OUTCOME:**

Staff recommends the Mayor and City Council vote to introduce the ordinance, and notify the public that a public hearing will be held on May 19, 2003.

AN EMERGENCY ORDINANCE TO AMEND CHAPTER 2 OF THE CITY  
CODE, ENTITLED "ADMINISTRATION", ARTICLE II, ENTITLED  
"MUNICIPAL-COUNTY RELATIONS", SECTION 2-6 THEREOF, ENTITLED  
"EXEMPTION FROM MONTGOMERY COUNTY LEGISLATION AND REGULATIONS  
WITHIN THE CITY" SO AS TO INCLUDE THE PROVISIONS OF SECTION 19-35  
ENTITLED "WATER QUALITY PROTECTION CHARGE" OF CHAPTER 19 OF THE  
MONTGOMERY COUNTY CODE ENTITLED "EROSION, SEDIMENT CONTROL,  
AND STORM WATER MANAGEMENT", AS BEING APPLICABLE AND  
ENFORCEABLE WITHIN THE CITY

The Mayor and City Council hereby declares an emergency to exist with respect to the regulation, operation, management and financing of storm water management in the City; THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 2 of the City Code, entitled "administration", Article II, entitled "Municipal-County Relations", Section 2-6 thereof, is hereby amended to read as follows:

CHAPTER 2  
ADMINISTRATION

\* \* \* \*

ARTICLE II. MUNICIPAL-COUNTY RELATIONS

Sec. 2.6. Exemption from Montgomery County legislation and regulations within the City.

It is hereby ordained by the Mayor and City Council of the City of Gaithersburg, Maryland, that pursuant to the authority granted by Article 23A, Section 2B(a), of the Annotated Code of Maryland, as enacted by Chapter 398 of the Laws of Maryland, 1983, and further pursuant to Chapter 33 of the Laws of Montgomery County, 1984, as codified in Chapter 2, Section 2-96 of the Montgomery County Code (1972 edition, as amended), as may hereafter from time to time be amended, the City of Gaithersburg, Maryland, is hereby declared exempt from any and all legislation and regulations pertaining hereto, heretofore or hereafter enacted by Montgomery County, Maryland, relating to any subject or matter upon which the Mayor and City Council of the City, or the City of Gaithersburg, as a municipal corporation, has been heretofore or is hereafter granted legislative authority, with the following exceptions which shall hereafter be applicable to and within the City of Gaithersburg, Maryland.

Chapter Title, Montgomery County Code 1984, as amended:

Chapter 1 -

\* \* \* \*

Chapter 19 - Erosion, Sediment Control and Storm Water Management, Sec.19-35 of said Chapter

\* \* \* \*

ADOPTED this 5<sup>th</sup> day of May, 2003, by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
Sidney A. Katz, Mayor and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 5<sup>th</sup> day of May, 2003. APPROVED/VETOED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was Adopted by the City Council of Gaithersburg, in public Meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2003, And that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2003. This Ordinance will become effective on the date of approval by the Mayor.

\_\_\_\_\_  
David B. Humpton, City Manager

**Boldface**

Underling

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

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*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by Amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

April 28, 2003

**RESPONSIBLE STAFF:**

Erica Shingara,  
Environmental Specialist

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
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	Ordinance
	Resolution
	Policy Discussion
X	Work Session Discussion Item
	Other: Introduction

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

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Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE:**

Discussion on the Possibility of Making Montgomery County's Water Quality Protection Charge Applicable Within the City of Gaithersburg

**SUPPORTING BACKGROUND:**

On November 20, 2001, the Montgomery County Council passed Bill No. 28-00. Among other things, this bill imposed a Water Quality Protection Charge that is assessed annually on residential properties, and certain non-residential properties that drain to residential stormwater management structures.

Fees are set by resolution of the County Council. Currently, the fee for single-family homes is \$12.75 a year, and \$4.21 a year for townhouses. Fees for multi-family properties and certain non-residential properties are calculated based on the amount of impervious area they have.

Under present law, the Montgomery County Water Quality Protection Charge is not assessed on properties located within the corporate City limits of Gaithersburg.

Versar, Inc. recently conducted an in-depth ecological assessment of the streams within the City of Gaithersburg. In the near future, representatives of Versar will be giving a presentation to the Mayor and City Council on the condition of our streams. However, generally speaking, a significant portion of our streams are in poor condition and one of the major causes of this poor condition is inadequate storm management.

As you know, the City of Gaithersburg is in the process of obtaining our National Pollutant Discharge Eliminate System (NPDES) permit. Under the terms of this Federal permit, we will be required to begin inspecting all stormwater management structures within the City of Gaithersburg. Additionally, we must require that corrective action be taken when structures are found not to be in compliance with all applicable regulations.

(continued on page 2)

**DESIRED OUTCOME:**

Hear presentation, and provide guidance.

## **SUPPORTING BACKGROUND (cont'd)**

Due to these new requirements, the proposed FY'04 Capital Budget allocates \$850,000 for new stormwater management facilities and retrofits of existing facilities. In addition to the capital costs, the City will realize significant costs associated with NPDES' compliance and stormwater management. Due to the fact that FY04 will be our first year of operating a NPDES program, it is difficult to determine the exact operating costs. However, we are estimating them to be approximately \$650,000 to \$700,000. The operating costs include maintaining stormwater management facilities, and the administrative costs associated with inspection and record keeping.

During discussions on the 2003 Environmental Strategic Direction, the Mayor and City Council expressed concern that our inspections and the requirements to repair and maintain SWM facilities would cause undo hardships on some of our common ownership communities.

This winter, staff from Planning and Code Administration, Public Works, and the City Manager's Office conducted pre-inspections of all SWM structures within the City that are owned by homeowners associations and condominium associations to get an estimate of the costs they will incur. These costs are significant. One community with only 39 homes will be facing an estimated \$100,000 in repair costs.

Staff has initiated discussions with Montgomery County staff about the possibility of the County Council and the City Council taking action so that the County's Water Protection Charge would be assessed on properties within the City of Gaithersburg with the County returning most of the funds (less administrative costs) to the City to help finance our SWM and NPDES compliance programs. At this point, we believe it would generate between \$110,000 to \$140,000 annually based on current rates.

Staff will be giving a short power point presentation (draft attached) to give the Mayor and City Council a better idea of the high costs associated with construction of new SWM facilities, retrofitting facilities, and maintaining existing facilities.

If the Mayor and City Council want to consider moving forward with having the County Water Protection Charge apply in Gaithersburg for FY '04, it will be necessary to introduce the appropriate Tillie Frank Ordinance on May 5, 2003.



# Montgomery County Water Quality Protection Charge

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Worksession  
April 28, 2003



# Federal Stormwater Management Policy

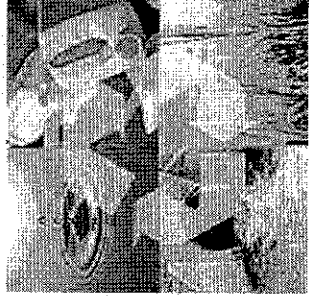
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- Clean Water Act (CWA) of 1972 established the National Pollutant Discharge and Elimination System (NPDES)
- 1987 amendments to CWA required EPA to develop phased approach to regulate stormwater under NPDES.

# Phase II Requirements

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1. Public education and outreach
2. Public involvement and participation+
3. Illicit discharge detection and elimination
4. Construction runoff control
5. Post-construction runoff control
6. Pollution prevention for municipal operations

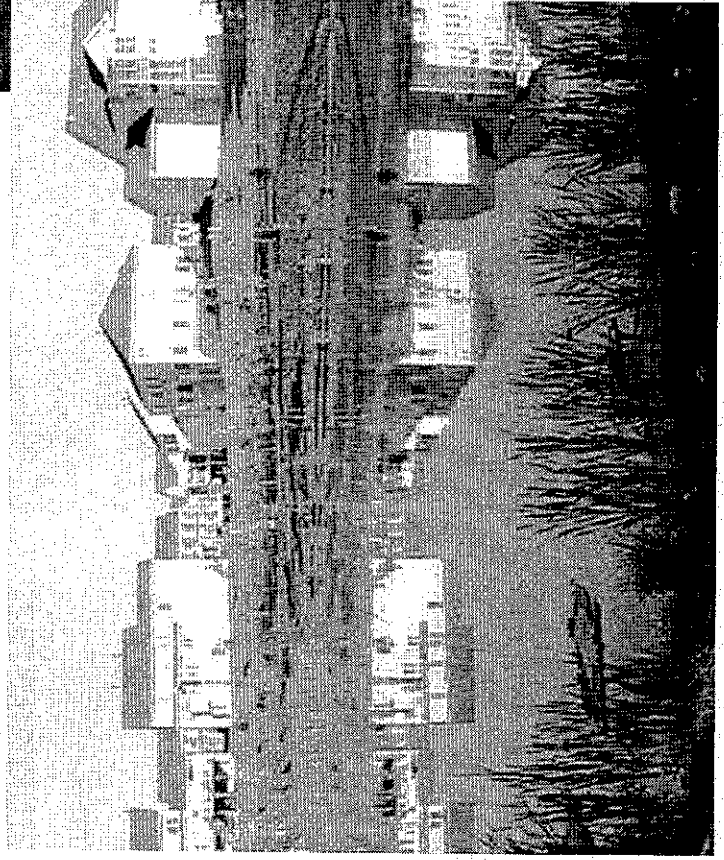
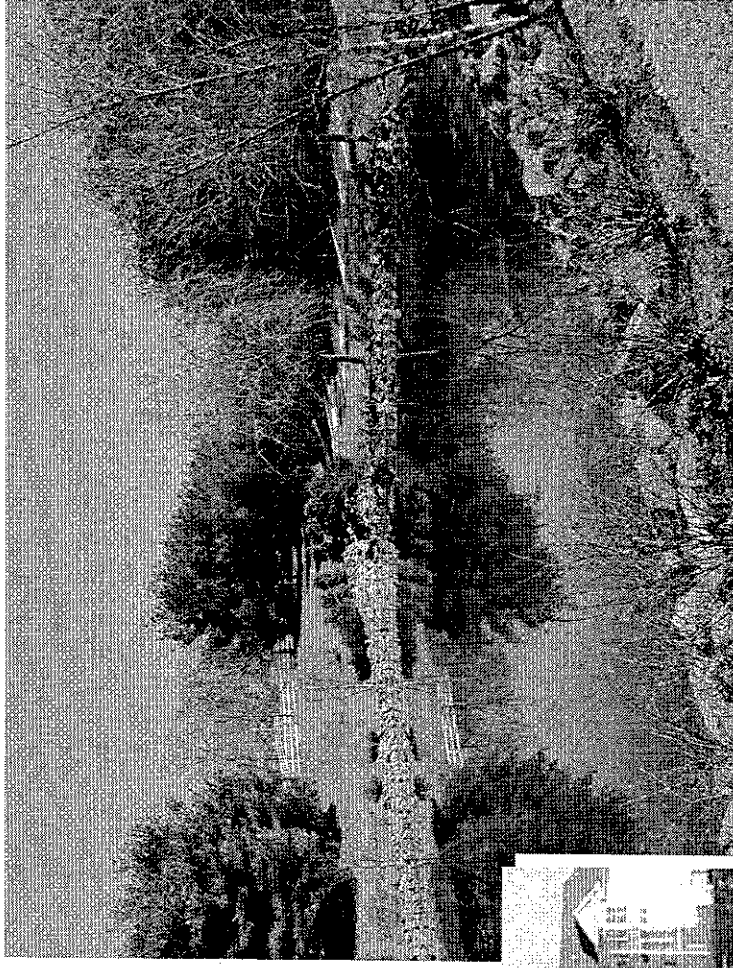




# Properly Maintained Wet Ponds

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- Banks maintained
- Vegetation present and adequately managed
- Limited accumulation of sediment and trash



# Maintenance Needs- Dry Pond

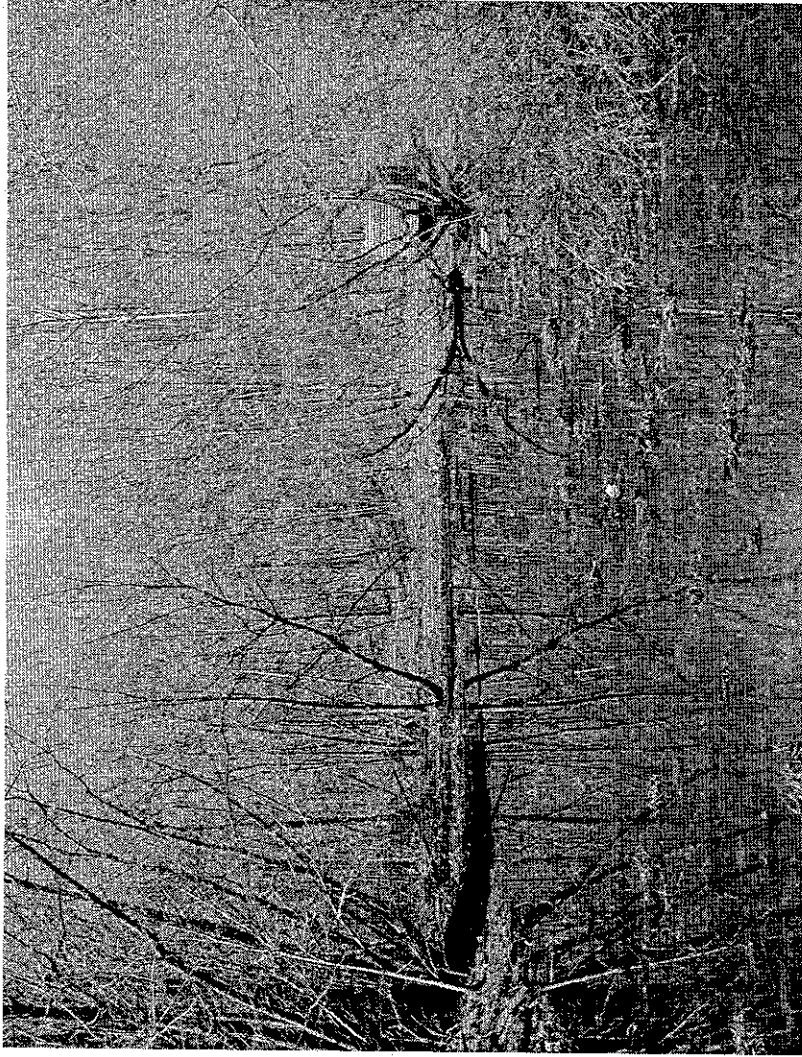
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- Accumulated sediment and trash
- Overgrown vegetation along banks
- Corroded metal riser and outfall



# Maintenance Needs- Wet Pond

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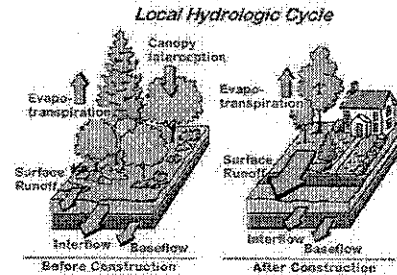
- Accumulated sediment and debris
- Overgrown vegetation along bank, outfall, and riser,
- Corroded metal riser and outfall



## Montgomery County Water Quality Protection Charge

Worksession  
April 28, 2003

## Stormwater Management Overview



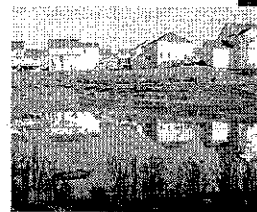
## Stormwater Management Challenges



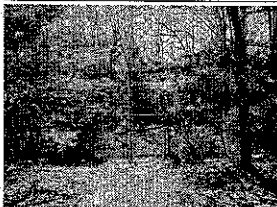
- Existing SWM infrastructure
  - 321 SWM facilities
  - 3,623 inlets
  - 511 outlets
  - 99 miles of pipe
- A significant portion of 24 miles of City streams are in poor conditions; a result of inadequate SWM.
- New NPDES Phase II SWM facility inspection and maintenance requirements.

## Properly Maintained Wet Ponds

- Structurally sound
- Vegetation present and adequately managed
- Limited accumulation of sediment and trash



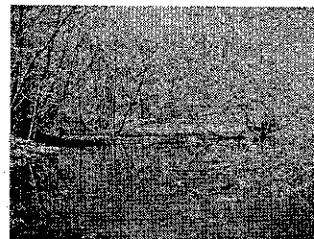
## Maintenance Needs- Dry Pond



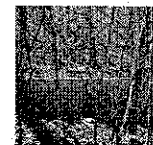
- Accumulated sediment and trash
- Overgrown vegetation along dam embankment
- Corroded metal riser and outfall



## Maintenance Needs- Wet Pond

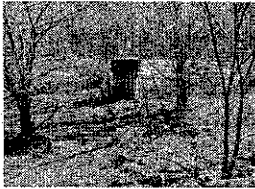


- Accumulated sediment and debris
- Overgrown vegetation along bank, outfall, and riser
- Corroded metal riser and outfall
- Inadequate emergency spillway





### Maintenance Needs- Dry Pond



- Overgrown vegetation along dam embankment, outfall, and riser
- Corroded metal riser and outfall
- Bank sloughing indicates potential structural problem



### Montgomery County Water Quality Protection Charge (WQPC)

- Bill No. 28-00 created a Water Quality Protection Charge.
- The charge is assessed annually on residential properties and certain non-residential properties that drain to residential stormwater management structures.
- Fees set by County Council
  - Single Family: \$12.75
  - Townhouses: \$4.25
  - Other associated non-residential: based on impervious area.
- Revenue from the WQPC will be used to implement ongoing SWM facility inspection and maintenance.

### Montgomery County Water Quality Protection Charge (WQPC)

- Staff has initiated discussions with Montgomery County about the possibility that the County's WQPC be assessed on properties within the City.
- A MOU could be established with the County to return most of the funds (less administrative costs) to the City to help finance our SWM inspection and maintenance.
- Based on current rates, the WQPC could generate approximately \$110,000 to \$140,000 annually.

